IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL No. 2184 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/09/2004 in WP No. 23334 OF 1999 on the file of the High Court.)

Between:

M/s. Maruthi Industries, Timber Merchants, Tufan Nagar Road, Near Railway Station, (Western side) Kavali, Nellore District.

..... APPELLANT

AND

1.The Divisional Railway Manager, (Works Branch), South Central Railway, Vijayawada.
2.The Senior Divisional Engineer, South Central Railway, (Works Branch), Vijayawada.
3.The Estate Officer, South Central Railway, Vijayawada.

.....RESPONDENTS

Counsel for the Appellant: Mr.L.Ravichander

for Mr.T.S.ANAND

Counsel for the Respondents: Mr.Gouri Shankar Sanghi

SC for Railways.

The Court at the admission stage made the following :

ORAL JUDGMENT:

(per The Honourable Sri DevinderGupta, the Chief Justice)

The appellant filed the Writ Petition questioning the action of the respondents in demanding enhanced licence fees on the ground that it was not liable to pay the enhanced licence fees. The Writ Petition was opposed by the respondent-Railways on number of grounds. Learned Single Judge dismissed the Writ Petition on the ground that there is suppression of facts and that there is already notice issued under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980 (for short "the Act"), and, the petitioner appellant can work out its remedies in accordance with law. The said order dismissing the Writ Petition is under challenge in this Appeal.

We have heard the learned counsel for parties.

Notice under sub-section (3) of Section 7 of the Act was served upon the petitioner requiring it to pay the licence fee as demanded by the respondents, and, to show cause as to why order requiring to pay the arrears be not made. Instead of replying to the show-cause notice, Writ Petition was filed.

In such like matters, when remedy can be worked out under the provisions of the Act, rightly, learned Single Judge did not entertain the Writ Petition. But, while dismissing the Writ Petition, learned Single Judge recorded some finding and made some observations, which, according to the learned counsel for the appellant, are likely to come in the way of the appellant in contesting those proceedings.

We, accordingly, dispose of this Writ Appeal by setting aside the order of the learned Single Judge, and, dismiss the Writ Petition with liberty reserved to the appellant to submit reply to show cause notice dated: 31.8.1999 within a period of four weeks from today before the Estate Officer, Additional Railway Manager, South Central Railway, Vijayawada, whereafter, the Estate Officer shall proceed to take his decision in accordance with law. For a period of four weeks, status quo as obtaining on today shall continue to be maintained, and, no coercive action is taken against

the appellant. In case, the petitioner-appellant would feel aggrieved by the decision of the Estate Officer, it will be open to the petitioner-appellant to challenge the order in accordance with law. Needless to add that the observations made by the learned Single Judge will not come in the way of the petitioner in contesting the proceedings before the Estate Officer. No costs.

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DEVINDER GUPTA, C.J.

31.12.2004.

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M.NARAYANA REDDY, J.

VR.

To

1.The Divisional Railway Manager, (Works Branch), South Central Railway, Vijayawada.
2.The Senior Divisional Engineer, South Central Railway, (Works Branch), Vijayawada.
3.The Estate Officer, Additional Railway Manager, South Central Railway, Vijayawada.

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